IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16699 of 2004

Between:

M. Somala, S/o Tikya, Village Vonterpalli, Post.Ligampet, Nizamabad District - 503 124.

..... PETITIONER

AND

1 APSRTC, Nizamabad Division, Nizamabad, Rep. by its Divisional

Manager.
2 APSRTC, Bus Depot, Kamareddy, Nizamabad District.
Rep. by its Depot Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Mandamus declaring the impugned Proceedings No. P1/20(114)/91-DVM:: NZB, dated 31-1-1992 in so far not setting the punishment of disciplinary authority in respect deferring increment for a period of one year with cumulative effect as arbitrary, unjust and in violation of principles of natural justice and consequently direct the respondents to extend all the consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD

STANDING COUNSEL FOR APSRTC

The Court at the stage of admission made the following O R D E R:

The petitioner is a Conductor in the respondent-Corporation. He was imposed with a punishment of stoppage of two increments with cumulative effect by order dated 23-08-1991 passed by the second respondent. When he preferred an appeal, the appellate authority modified the punishment into that of deferring of one increment with cumulative effect. The petitioner after 12 years approached this Court by way of this writ petition challenging the order of the second respondent, which was modified by the first respondent, by contending that though the deferment of two increments with cumulative effect, which was modified as stoppage of one increment with cumulative effect is a major penalty, it cannot be sustained, without conducting any enquiry.

The record discloses that no enquiry was conducted before inflicting the punishment on the petitioner. Therefore, it is seen that there is an illegality committed by the respondents in inflicting the punishment on the petitioner.

As per the judgment of the Supreme Court in ***Kulwanth Singh Gill vs. The State of Punjab***, the order without enquiry cannot be sustained. Therefore, the impugned order is liable to be set aside, but, since the petitioner slept over the matter for a period of 12 years, this Court is of the opinion that it would be appropriate if the punishment imposed on the petitioner is treated as withholding of one increment without cumulative effect. The petitioner is not entitled for the difference of the amount, if any due, by virtue of this order, but he is entitled to get the increments on notional calculation from the date of this order, to which he is entitled, had he not been imposed the penalty of stoppage of one increment with cumulative effect.

The writ petition is accordingly disposed of. No order as to costs.

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17-09-2004

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To

1 The Divisional Manager, APSRTC, Nizamabad Division,

Nizamabad.

2 The Depot Manager, APSRTC, Bus Depot, Kamareddy,

Nizamabad District.

3 Two C.D. copies